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| INFO | LOG-00  | AF-01   | AID-01  | AMAD-01 | ARA-01  | CIAE-00 | SMEC-00 |
|      | OASY-00 | DODE-00 | DOEE-00 | ANHR-01 | EAP-01  | EUR-01  | OIGO-01 |
|      | H-01    | TEDE-00 | INR-00  | IO-16   | JUSE-00 | MCO-01  | ADS-00  |
|      | M-00    | NEA-01  | NSAE-00 | NSCE-00 | OIC-02  | OIG-04  | OMB-01  |
|      | PA-01   | PM-00   | PRS-01  | P-01    | SNP-00  | SP-00   | SR-00   |
|      | SSO-00  | SS-00   | TRSE-00 | T-00    | USIE-00 | SA-01   | SNIS-00 |
|      | NISC-02 | PMB-00  | PRME-01 | DRL-09  | G-00    | /051R   |         |

DRAFTED BY: L/UNA:ETBLOOM

APPROVED BY: IO:GWARD

DOD:VKERN        JCS:KROSS

AF:PBUSHNELL    DRL:MALVAREZ

L:MMATHESON

USUN/W:DSCHIEFFER

P:DGOLDWYN      DOJ:MRICHARD

IO/PHO:RLOFTIS

S/S:LGALLIVAN   S/S-O:ATIDBALL    NSC:JREED IO/UNP:AKORKY

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AMEMBASSY NAIROBI IMMEDIATE

C O N F I D E N T I A L STATE 245423

E.O. 12356: DECL: OADR

TAGS: PREL, UNSE, RW

SUBJECT: PROPOSED UN SECURITY COUNCIL RESOLUTION

AUTHORIZING DETENTION OF SUSPECTED RWANDAN WAR CRIMINALS

1. CONFIDENTIAL - ENTIRE TEXT.

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2. THIS IS AN ACTION MESSAGE.

3. DEPARTMENT IS GRAVELY CONCERNED BY CONTINUED REPORTS OF ATTACKS IN REFUGEE CAMPS IN ZAIRE AND ELSEWHERE AGAINST HUMANITARIAN AID WORKERS AND OTHERS. WE BELIEVE THAT BEFORE THE SITUATION FURTHER DETERIORATES, LOCAL GOVERNMENTS MUST MOVE TO DETAIN PERSONS INSTIGATING THESE ATTACKS. SUCH STATES SHOULD ALSO DETAIN PERSONS AS TO WHOM THERE IS EVIDENCE OF COMPLICITY IN WAR CRIMES, GENOCIDE AND OTHER VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW IN RWANDA.

4. CLEARLY ALL STATES HAVE LEGAL AUTHORITY TO DETAIN PERSONS WHO INSTIGATE ATTACKS IN THEIR TERRITORY. WITH RESPECT TO PERSONS SUSPECTED OF WAR CRIMES IN RWANDA, SOME STATES HAVE TOLD US THAT THEY LACK LEGAL AUTHORITY TO DETAIN SUCH PERSONS ABSENT A UNSC RESOLUTION. ALTHOUGH WE

HAVE SOME DOUBTS ABOUT WHETHER IN FACT DOMESTIC LEGAL AUTHORITY IS LACKING, NONETHELESS USG IS WILLING TO

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PROPOSE AN APPROPRIATE RESOLUTION IN THE UNSC. AT THE VERY LEAST, SUCH A RESOLUTION MAY HELP CERTAIN STATES FIND THE POLITICAL WILL TO TAKE ASSERTIVE ACTION.

5. FYI: THIS RESOLUTION AUTHORIZES ACTIONS TO BE TAKEN BY MEMBER STATES. IT DOES NOT PROVIDE AUTHORITY TO UN FORCES, E.G., UNAMIR. END FYI.

6. USUN IS REQUESTED TO SOUND OUT THE P-4 AND OTHER APPROPRIATE MISSIONS WITH RESPECT TO THE DRAFT IN PARA 7, BELOW. OUR INTERLOCUTORS SHOULD BE INFORMED THAT WE VIEW THIS AS A MATTER OF EXTREME URGENCY, AND THAT WE BELIEVE THE COUNCIL SHOULD ACT IN THE NEXT FEW DAYS.

7. BEGIN TEXT

THE SECURITY COUNCIL,

REAFFIRMING ALL ITS PREVIOUS RESOLUTIONS ON THE SITUATION IN RWANDA, IN PARTICULAR ITS RESOLUTIONS 925 (1994) AND 935 (1994),

CONCERNED BY THE CONDITIONS IN THE REFUGEE CAMPS OUTSIDE RWANDA, INCLUDING REPORTS OF VIOLENCE DIRECTED AGAINST

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HUMANITARIAN AID WORKERS,

EXPRESSING ONCE AGAIN ITS GRAVE CONCERN AT THE REPORTS INDICATING THAT SYSTEMATIC, WIDESPREAD AND FLAGRANT VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW, INCLUDING ACTS OF GENOCIDE, HAVE BEEN COMMITTED IN RWANDA,

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RECALLING ITS RESOLUTION 935 (1994) IN WHICH THE COUNCIL REQUESTED THAT THE SECRETARY-GENERAL ESTABLISH, AS A MATTER OF URGENCY, AN IMPARTIAL COMMISSION OF EXPERTS TO EXAMINE AND ANALYZE INFORMATION PROVIDED BY STATES AND OTHERS WITH A VIEW TO PROVIDING THE SECRETARY-GENERAL WITH ITS CONCLUSIONS ON EVIDENCE OF GRAVE VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW COMMITTED IN THE TERRITORY OF RWANDA,

DETERMINED TO PUT AN END TO SUCH CRIMES AND TO TAKE EFFECTIVE MEASURES TO BRING TO JUSTICE THE PERSONS WHO ARE RESPONSIBLE FOR THEM,

DETERMINING THAT THIS SITUATION CONTINUES TO CONSTITUTE A THREAT TO INTERNATIONAL PEACE AND SECURITY,

ACTING UNDER CHAPTER VII OF THE CHARTER OF THE UNITED NATIONS,

1. CONDEMNS THE ATTACKS AGAINST PERSONS IN THE REFUGEE CAMPS, INCLUDING HUMANITARIAN AID WORKERS NEAR THE BORDERS OF RWANDA, AND DEMANDS THAT SUCH ATTACKS IMMEDIATELY CEASE, AND CALLS UPON MEMBER STATES TO TAKE APPROPRIATE STEPS TO PREVENT SUCH ATTACKS WITHIN THEIR JURISDICTION;

2. AUTHORIZES AND REQUESTS MEMBER STATES BORDERING RWANDA TO DETAIN PERSONS FOUND WITHIN THEIR TERRITORY AS TO WHOM THERE IS CREDIBLE EVIDENCE THAT THEY HAVE INCITED OR PARTICIPATED IN SERIOUS ACTS OF VIOLENCE AGAINST HUMANITARIAN AID WORKERS AND REFUGEES IN OR NEAR REFUGEE

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CAMPS IN STATES NEIGHBORING RWANDA, OR WHO POSE A SERIOUS SECURITY RISK TO THOSE CAMPS BECAUSE THEY ARE THREATENING TO INCITE OR PARTICIPATE IN SERIOUS ACTS OF VIOLENCE, OR WHO ENGAGE IN VIOLENT INTIMIDATION OF REFUGEES DESIGNED TO DISCOURAGE OR OTHERWISE PREVENT THEM FROM RETURNING TO RWANDA;

3. FURTHER AUTHORIZES AND REQUESTS MEMBER STATES TO TAKE APPROPRIATE ACTION TO DETAIN PERSONS FOUND WITHIN THEIR TERRITORY AS TO WHOM THERE IS CREDIBLE EVIDENCE THAT THEY COMMITTED ACTS OF GENOCIDE OR OTHER GRAVE VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW IN RWANDA, OR IN STATES BORDERING RWANDA AND RELATED TO THE CRISIS IN RWANDA, SINCE 6 APRIL 1994;

4. REQUESTS THAT STATES DETAIN PERSONS PURSUANT TO PARAGRAPHS 2 AND 3 ABOVE FOR A PERIOD OF 180 DAYS, OR FOR SUCH LONGER PERIOD AS MAY BE PERMITTED UNDER RELEVANT LOCAL LAWS, PENDING A DETERMINATION CONCERNING PROSECUTION OF SUCH PERSONS BY A COURT OR TRIBUNAL WITH JURISDICTION OVER THE CASE;

5. WELCOMES THE APPOINTMENT BY THE SECRETARY-GENERAL OF THE MEMBERS OF THE COMMISSION OF EXPERTS ON VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW IN RWANDA AND URGES THE COMMISSION TO UNDERTAKE ITS WORK EXPEDITIOUSLY, INCLUDING THE PROVISION OF AN INTERIM REPORT AS SOON AS POSSIBLE, SO THAT THE COUNCIL MAY CONSIDER FURTHER ACTIONS AT THE EARLIEST POSSIBLE TIME, INCLUDING THE INTERNATIONAL PROSECUTION OF THOSE WHO COMMITTED GENOCIDE AND OTHER CRIMES AGAINST HUMANITY;

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6. REQUESTS ALL STATES TO COOPERATE FULLY WITH THE COMMISSION OF EXPERTS BY PROVIDING ACCESS TO WITNESSES AND INFORMATION CONCERNING VIOLATIONS OF HUMANITARIAN LAW IN RWANDA;

7. DECIDES THAT ALL STATES DETAINING PERSONS FOR THE REASONS SPECIFIED IN PARAGRAPHS 2 AND 3 ABOVE SHALL INFORM THE SECRETARY-GENERAL OF THE IDENTITY OF PERSONS DETAINED, THE NATURE OF THE CRIMES BELIEVED TO HAVE BEEN COMMITTED AND PENDING CHARGES, THE DATE WHEN THE PERSONS WERE DETAINED AND THE PLACE OF DETENTION;

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8. DECIDES TO REMAIN ACTIVELY SEIZED OF THE MATTER.  
CHRISTOPHER

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